

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ACCESS 4 ALL, INC., a Florida Not-For-Profit	:	
Corporation, and NELSON M. STERN,	:	
Individually,	:	
	:	
Plaintiffs,	:	Case No. 1:07-cv-2923
	:	
v.	:	Judge Leonard B. Sand
	:	Magistrate Judge Frank Maas
ABA HEIMAN and JERRY HEIMAN,	:	
individuals, and ULSTER HEIGHTS	:	
PROPERTIES, INC., a New York Corporation,	:	
	:	
Defendants.	:	

**PLAINTIFFS' MOTION TO DISMISS AGAINST AGAINST DEFENDANTS ABA AND
JERRY HEIMAN AND AMEND CAPTION**

Plaintiffs, by and through undersigned counsel, hereby move to dismiss the instant action without prejudice against Defendants Aba Heiman and Jerry Heiman and amend the caption, and state as follows:

1. Plaintiffs, disabled persons, commenced the instant action seeking injunctive relief pursuant to the Americans With Disabilities Act, 42 U.S.C. Section 12181, et seq. for the removal of discriminatory barriers to access present at the place of public accommodation known as Prel Plaza, located at 60 Dutch Hill Road in Orangeburg, NY.

2. Results received from the Plaintiffs' title investigator indicated that Defendants Aba Heiman and Jerry Heiman ("the Heimans") were the title owners of the subject property.

3. Based on the title investigation, Plaintiffs named the Heimans as parties Defendant and served the same.

4. On behalf of himself and his brother, Aba Heiman filed an Answer denying ownership.

5. Upon receipt of the Heimans' denial of ownership, undersigned counsel promptly performed a significant investigation into the ownership of the subject property and determined that Ulster Heights Properties, Inc. is the correct owner.

6. Based on this subsequent information, Plaintiffs filed an Amended Complaint, naming Ulster Heights Properties, Inc.

7. Plaintiffs now respectfully request that this Court enter an Order dismissing this action against the Heimans and amending the Caption to reflect their removal as parties Defendant.

8. Undersigned counsel has conferred with Aba Heiman with respect to this request and Mr. Heiman does not consent.

9. Ulster Heights Properties, Inc., which has not yet filed any appearance or response in this action, remains as a party defendant.

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order dismissing this action against Aba Heiman and Jerry Heiman without prejudice and amend the caption to reflect that Ulster Heights remains the only named Defendant herein.

Respectfully Submitted,

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and

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By: /s/ Thomas B. Bacon
Thomas B. Bacon, Esquire

Certificate of Service

I hereby certify that a true and correct copy of the foregoing was served via the Court's ECF system upon the following persons this 28th day of June, 2007.

Aba Heiman, Esq.
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/s/ Thomas B. Bacon